

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Waiver of Industrial Signal Booster	)	WTB Docket No. 19 - 272
Labelling Requirements	)	
	)	

**REPLY COMMENTS OF PIVOTAL COMMWARE**

On September 16, 2019, Pivotal Commware (“Pivotal”) filed the above-captioned Request for Waiver (“Waiver Request”) of the Industrial Signal Booster (“ISB”) labelling rules set forth in Section 20.21(f).<sup>1</sup> On September 30, 2019, Surecall filed a Petition to Deny the Waiver Request and T-Mobile USA, Inc. (“T-Mobile”) filed Comments. Pivotal submits that neither the Petition to Deny nor the Comments provide any reason for the Commission not to move forward expeditiously to grant the relief requested in the Waiver Request.<sup>2</sup>

**The Commission Should Dismiss Surecall’s Petition To Deny**

The Surecall Petition to Deny rests on the mistaken notion that the Pivotal Echo 5G Subscriber unit (the “Device”) is a Consumer Signal Booster (“CSB”). For example, Surecall characterizes the Device as “a new class of Consumer Signal Boosters ....”<sup>3</sup> Surecall subsequently notes that “[t]he core component of the Commission’s Consumer Signal Booster rules is the NPS [Network Protection Standard] ...”<sup>4</sup> Surecall later asserts that the Waiver Request “directly conflicts with, and will seriously undermine, the Commission’s carefully

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<sup>1</sup> 47 C.F.R. § 20.21(f). Pivotal filed a supplement on September 26, 2019 (the “Supplement”).

<sup>2</sup> Multiple letters (all but one of which are identical) opposing the Waiver Request were filed on October 3, 4 and 7, 2019, well after the September 30, 2019 deadline for filing oppositions. The Commission should not consider these late-filed letters. In all events, the letters do not raise any issues not already raised by Surecall, and addressed by Pivotal in these Reply Comments.

<sup>3</sup> Surecall Petition to Deny at 1.

<sup>4</sup> Id. at 2.

crafted distinction between Consumer Signal Boosters that comply with the NPS and Industrial Signal Boosters ....”<sup>5</sup>

At the outset, Pivotal emphasizes that it sought a waiver of the ISB *labelling* rules. The scope of the Waiver Request is limited to whether there should be a label, and if so, what the text of the label should be. Much of Surecall’s Petition to Deny extends far beyond the issue raised in the Waiver Request, and therefore beyond the scope of what the Commission should consider in this proceeding.

The entire premise for Surecall’s Petition to Deny – namely, that the Device is a Consumer Signal Booster – is incorrect, and Surecall’s arguments fail accordingly. Pivotal specifically asked the Commission for guidance on how the Device should be classified for purposes of the equipment authorization process. The Commission classified the Device as an Industrial Signal Booster (“ISB”) subject to the Part 30 technical rules governing ISBs operating in the Upper Microwave Flexible Use Service, *i.e.* the millimeter wave bands. Specifically, the Office of Engineering and Technology, by response dated June 11, 2019, stated that:

[OET has] confirmed with [the Wireless Telecommunications Bureau] the classification of this device as an industrial signal booster. As an industrial signal booster, the 20.21(f) labeling requirements apply. The applicant may choose to apply for a waiver of the rule.<sup>6</sup>

Classification of the Device as an ISB makes perfect sense. First, it is the service provider, not the consumer, that is purchasing the Device. The Device is not available at retail.<sup>7</sup> That alone makes the Device fundamentally different from a CSB. Second, the Device is authenticated, and fully controlled by, the service provider. The Device will not operate in the

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<sup>5</sup> Id. at 4.

<sup>6</sup> See PCTEST-FCC KDB 790355.

<sup>7</sup> In its Supplement, Pivotal stated that “[t]o alleviate any concerns, Pivotal advises that it has no objection to a condition stating that the waiver is applicable only if the Device is distributed by the service provider.” Supplement at 2.

28 GHz band absent automated authentication upon commissioning by the service provider.

Third, as Surecall recognizes, there is no provision in the CSB rules for devices that operate above 2.1 GHz.<sup>8</sup>

Surecall asserts that permitting use of the Device as an ISB rather than a CSB “would risk creating substantial interference to wireless networks ....” This is incorrect. First, in order to obtain equipment authorization, the Device must undergo rigorous testing in order to demonstrate compliance with the Part 2 and Part 30 technical rules, including the following:

- Occupied Bandwidth (Section 2.1049)
- EIRP Density (Section 30.202)
- RF Output Power (Section 2.1046)
- Out-of-Band Spurious Emissions (Sections 2.1051 and 30.203)
- Out-of-Band Emissions at the Band Edge (Sections 2.1051 and 30.203)
- Frequency Stability (Section 2.1055)

Second, if there were even a modest threat of interference, why is Surecall the only party concerned with such interference? It is the service providers who would suffer from interference, but no service provider has filed comments expressing concern about interference.<sup>9</sup>

### **The Commission Should Grant a Waiver of the ISB Labelling Requirements**

Pivotal’s seeks a waiver of the Section 20.21(f) labelling requirement that applies to ISBs. Pivotal reiterates its request that the Commission waive, in its entirety, any labelling requirement for the Device. If a label is required, Pivotal urges the Commission not to include any text that is inapplicable or confusing. Pivotal explained in its Waiver Request and in its Supplement why the text of the ISB label as specified in Section 20.21(f) would be wholly inappropriate for the Device. In its Comments, T-Mobile agrees that the ISB labelling requirements should not apply to the Device.<sup>10</sup> T-Mobile asserts, however, that the Device

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<sup>8</sup> See Section 20.21(e)(3) (Frequency Bands).

<sup>9</sup> T-Mobile filed comments, but did not express any concerns about potential interference.

<sup>10</sup> Comments of T-Mobile at 1.

should be subject to the CSB labelling requirements.<sup>11</sup>

The CSB labelling requirements are not relevant or appropriate to the Device, and therefore, they should not be applied. As discussed above, the Commission has already determined that the Device is an ISB. For that reason alone, the CSB labelling requirements are inappropriate and inapplicable.

If the Commission ultimately decides to require labelling, the text of the label should be appropriate to the operation of the Device. Thus, Pivotal crafted proposed text for the label, borrowing in part from the CSB text, while deleting irrelevant language. Pivotal proposed the following text:

This device must be installed in a fixed location on your window. This device may only be operated with the permission of your service provider. Users are prohibited from making any alterations to this device.

By contrast, the full text of the CSB label, set forth immediately below, makes no sense for the Device:

(1) This is a CONSUMER device.

BEFORE USE, you MUST REGISTER THIS DEVICE with your wireless provider and have your provider's consent. Most wireless providers consent to the use of signal boosters. Some providers may not consent to the use of this device on their network. If you are unsure, contact your provider.

You MUST operate this device with approved antennas and cables as specified by the manufacturer. Antennas MUST be installed at least 20 cm (8 inches) from any person.

You MUST cease operating this device immediately if requested by the FCC or a licensed wireless service provider.

WARNING. E911 location information may not be provided or may be inaccurate for calls served by using this device.

(2) The label for Consumer Signal Boosters certified for fixed indoor operation also must include the following language:

This device may be operated ONLY in a fixed location for in-building use.<sup>12</sup>

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<sup>11</sup> Id.

<sup>12</sup> Section 20.21(f)(A).

The first paragraph of subsection (1) states that “BEFORE USE, you must REGISTER THIS DEVICE with your wireless provider and have your provider’s consent.” Such language is unnecessary and confusing with regard to the Device, because the Device will be provided to consumers only by their wireless service provider – thereby ensuring the provider’s consent and pre-registration by the provider.<sup>13</sup> In all events, the text proposed by Pivotal covers this concept in a more appropriate manner by stating that “This device may only be operated with the permission of your service provider.” The second paragraph states that “You MUST operate this device with approved antennas and cables as specified by the manufacturer. Antennas MUST be installed at least 20 cm (8 inches) from any person.” The Device does not require an antenna or cables. The only required accessory is the power cord, and it is the service provider that will be providing the power cord with the Device. Pivotal does, however, propose text that goes further, by stating that “Users are prohibited from making any alterations to this device.” Further, because the antenna will be installed on a window, the language regarding installation at least 20 centimeters from any person is not relevant. The third paragraph states that “You MUST cease operating this device immediately if requested by the FCC or a licensed wireless service provider.” Again, this is wholly irrelevant, because the service provider controls operation of the Device, and it is the service provider that must cease operating the Device if requested by the FCC or another licensed wireless service provider. The fourth paragraph states “WARNING. E911 location information may not be provided or may be inaccurate for calls served by using this device.” If the Commission ultimately determines that a label is required, Pivotal does not object to the addition of this language. Finally, subsection (2) states that “This device may be

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<sup>13</sup> The registration requirements include the following: (1) the name of the Consumer Signal Booster owner and/or operator; (2) the make, model, and serial number of the device; (3) the location of the device; and (4) the date of initial operation. Section 20.21(h). Unlike with a CSB purchased at retail, all of this information is, by definition, available to any service providing distributing the Pivotal Device to a subscriber.

operated ONLY in a fixed location for in-building use.” Pivotal has incorporated this concept into its proposed wording that “This device must be installed in a fixed location on your window.”

### **Grant of the Waiver Will Serve the Public Interest**

Grant of the waiver will accelerate use of the millimeter wave spectrum to provide very high throughput, low latency 5G broadband to consumers, and thus, will serve the public interest.

Surecall asserts that:

if the Commission grants a waiver that would effectively permit only one manufacturer to market 5G boosters through the carriers’ retail distribution channels, it will prevent the highly beneficial reduction in prices and advances in capabilities that routinely accompany the competitive introduction of new technology.<sup>14</sup>

Pivotal is puzzled by this assertion. Grant of the requested waiver will in no way limit competition in the market for devices that can bring 5G millimeter wave services to consumers. Nothing in the waiver request will limit, in any manner, the ability of other manufacturers to market 5G devices.

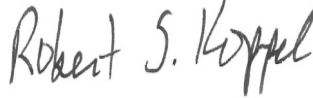
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<sup>14</sup> Surecall Petition to Deny at 6.

## **Conclusion**

For the reasons set forth herein, Pivotal Commware urges the Commission to expeditiously grant its Request for Waiver of the ISB labelling requirements set forth in Section 20.21(f) of the Commission's rules and dismiss the Petition to Deny filed by Surecall.

Respectfully submitted,

A handwritten signature in black ink that reads "Robert S. Koppel". The signature is written in a cursive, slightly slanted style.

Robert S. Koppel

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